

Remarks

Reconsideration of this Application is respectfully requested.

Claims 10-28 are pending in the application, with claim 10 being the independent claim. Claims 10 and 12-28 have been examined, claims 1-9 have been canceled, and claim 11 has been withdrawn from consideration.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned “**Version With Markings to Show Changes Made.**”

Based on the above Amendment and the following Remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Acknowledgement of Allowed Subject Matter

The indication that claims 19-25 contain allowable subject matter is gratefully noted.

Objection to the Specification

The Action objects to the specification for improper incorporation of foreign patent documents by reference. Reconsideration is respectfully requested. As noted by MPEP 608.01(p)(I)(A), “nonessential material” can be incorporated by reference to patents or applications published by foreign countries. The disclosure would only have to be amended to

include the material incorporated by reference if the material was deemed “essential material.” The MPEP defines “essential material” as material necessary to (1) describe the claimed invention, (2) provide an enabling disclosure of the claimed invention, and (3) to describe the best mode. In that the Action does not reject any of the claims under 35 U.S.C. §112, first paragraph for lack of enablement, lack of written description or failure to describe the best mode, it is assumed that the material incorporated by reference is not necessary. As such, the Action implicitly acknowledges that the material is nonessential, and thus, the foreign patent documents can be incorporated by reference.

The specification and abstract have been amended to overcome the objections noted in items 3 and 4 of the Action.

Rejections under 35 U.S.C. § 102

Claims 10, 12-13, 16 and 26-28 stand rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent 5,816,261 to Dyett.

Claim 10 recites “an unbalanced drive including an output member rotatable about a first axis;...an arrangement for compensating for the lack of balance of said drive, including a first counterpoise..., and a second counterpoise.”

Dyett teaches a ledger device with two opposing ledger support members 10, 12. Each ledger support member is mounted on two rotary crank members. For example, ledger support member 10 is driven by rotary crank member 30 and rotary crank member 32. Rotary crank

member 30 includes a balance weight 30A (shown in Fig. 2), and Dyett further discloses that rotary crank member 32 can also carry or be formed by a counter weight (does not appear to be shown in the figures).

As recited by claim 10, a drive of the claimed invention has two counterpoises. In contrast, each of the drives/rotary crank members of Dyett has a single counterpoise. Accordingly, claim 10 is not anticipated by Dyett.

Rejections under 35 U.S.C. § 103

Claims 10 and 12-15 are rejected under 25 U.S.C. §103 over U.S. Patent 5,050,471 to Niemann in view of Dyett.

Dyett is cited for teaching first and second counterpoises. As noted above, each of the drives/rotary crank members in Dyett has a single counterpoise, but claim 10 recites that the drive has two counterpoises. As such, the combination of Dyett and Niemann does not teach the claimed features.

Claims 17-18 stand rejected under 35 U.S.C. §103 as being unpatentable over Dyett in view of U.S. Patent 3,915,041 to Trofimov et al.

Claims 17 and 18 depend from claim 10. Trofimov fails to cure the deficiency in the rejection of claim 10, discussed above. Accordingly, claims 17 and 18 are allowable over the cited art.

Applicant: Cord Wohltmann
Appl. No. 09/736,190

New Claim

New claim 29 even further distinguishes over the cited art, particularly Dyett, by reciting that the drive only has a single crank member. Even, for the sake of argument, if the ledger support member 10 or 12 is considered to be driven by a single drive, it is clear that each ledger support member has two crank members.

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Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

A Notice of Allowance with claims 10-29 is respectfully requested.

Respectfully submitted,

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Version With Markings To Show Changes Made

In the Specification

Page 19, replace the paragraph beginning on line 25 with the following rewritten paragraph:

The cutter 14 of the cutoff [8]9 can receive motion from the crank mechanism 7 or from another unit of the cigarette rod making machine 5 in a manner not forming part of the present invention. All that counts is to ensure that the cutter 14 move in the direction of the 5 arrow 17 and at the exact speed of the cigarette rods 4, 6 while moving through the composite slot 16 provided therefor in the guides 2, 3 of the ledger 1. The reference character 12 denotes a holder or housing which receives motion (from the crank mechanism 7 or from another driving unit) to cause the cutter 14 to orbit (see the arrow 13) along a path extending in part through the composite slot 16; the cutter 14 moves through the slot 16 when its speed (in the direction indicated by the arrow 17) matches the speed of the cigarette rods 4 and 6. It is also possible to employ a cutoff with two [cutters]cutters, one for each of the rods 4 and 6.

Page 20, replace the paragraph beginning on line 17 with the following rewritten paragraph:

The ledger 1 further comprises a reciprocal support 21 which is rigid or of one piece with the guides 2, 3 and forms part of the flexible carrier 8. The latter further includes three elongated leaf springs 22, 23, 24 which carry the support 21 (at 18) and are mounted (at 31) on a stationary supporting component 32. The crank mechanism 7 has a crank arm 27 one end portion 28 [33] of which is secured to the support 21 by a pin-shaped connector 29 and the other end portion 33

of which is affixed to a disc 36 of the mechanism 7 by a crank pin 34. The axis of the crank pin 34 is parallel to the axis 40 of the output member 37 of the crank mechanism 7. The axis 40 is parallel to the axis of the crank pin 34 and the latter orbits about the axis 40 when the crank mechanism 7 is on, namely when the prime mover 38 (e.g., an electric motor) drives the disc 36 by way of an endless flexible element (e.g. a V-belt) 46. The disc 36 can include a pulley or sheave 50 for the V-belt 46.

In the Claims:

Please cancel claims 1-9 and amend claim 10.

10. (Amended) Apparatus for subdividing at least one running rod into sections of predetermined length, comprising:

an unbalanced drive including an output member rotatable about a first axis;
a mobile ledger for the at least one rod, said ledger being reciprocal back and forth in and counter to a predetermined direction and receiving motion from said output member; and
[means] an arrangement for compensating for the lack of balance of said drive, including
a first counterpoise arranged to orbit about said first axis, and
a second counterpoise arranged to orbit about a second axis in synchronism with said first counterpoise, said second axis being spaced apart from said first axis.

29. (New) The apparatus of claim 10, wherein said drive has a single crank member.

In the Abstract:

Please amend the Abstract as follows:

Lack of balance of a crank mechanism, which reciprocates a ledger having one or more guides for one or more cigarette rods or filter rods each issuing from a maker and being subdivided into a row of cigarettes or filter mouthpieces, is at least partially counteracted by at least two counterpoises one of which orbits about the axis of the crank mechanism in a first direction and the other of which orbits, in a second direction counter to the first direction, about a second axis laterally offset relative to the axis of the crank mechanism. A third counterpoise can be mounted for orbital movement about the axis of the crank mechanism and, if utilized, is angularly offset relative to the first counterpoise. The prime mover for the crank mechanism orbits the first and [(if provided)] third counterpoises in the first direction, and [(e.g., by way of a V-belt)] the second counterpoise in the second direction. [An orbiting knife reciprocates with the ledger and severs the rod or rods during movement with the ledger in the direction of forward movement of the rod or rods.]